

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.1176 OF 1998

The Commissioner of Income Tax
Pune .. Applicant.

V/s.

Yashwant Sahakari Sakhar
Karkhana Ltd., Pune .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

**CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.**

DATED : 12TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the parties.
The Tribunal has referred following questions for the
opinion of this Court, reading as under :

Whether on the facts and in the circumstances
of the case the ITAT relying on the decision
of its Special Bench in the case of Shri
Chhatrapati SSK Ltd. (198 ITR 78 - AT) was
right in deleting the following additions by
holding that the various funds/deposits
collected by the assessee society out of the
sugarcane purchase price payable to the cane
growers are not trading receipts of the
assessee ?

1. refundable deposits,
2. Non-refundable deposits,
3. Interest on NRD,
4. Hutment fund,
5. C.M.'s relief fund,
6. Govt. Small saving scheme,

7. Area development fund

2. In so far as all other items except area development fund are concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as area development fund is concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra) as such the said issues stand remitted back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)